

# United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

**No. 08-1303**

**September Term 2008**

**STB-35087**

**Filed On:** November 10, 2008

In re: Canadian National Railway Company  
and Grand Trunk Corporation,

Petitioners

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Village of Barrington, Illinois, et al.,  
Intervenors

**BEFORE:** Henderson, Rogers, and Garland, Circuit Judges

## **ORDER**

Upon consideration of the petition for a writ of mandamus, amicus' response in support thereof, respondent's and joint intervenors' oppositions thereto, and the reply; the motion for expedited consideration of the petition; the motions for leave to exceed the page limits; and the motion for leave to file supplement to appendix to petition for mandamus, the responses thereto, and the reply, it is

**ORDERED** that the motions for leave to exceed the page limits be granted. The Clerk is directed to file respondent's lodged response and petitioners' lodged reply. It is

**FURTHER ORDERED** that the court take judicial notice of the letter dated October 27, 2008, from the U.S. Department of Transportation to the Surface Transportation Board. It is

**FURTHER ORDERED** that the petition for a writ of mandamus be denied. A writ of mandamus is "an extraordinary remedy, to be reserved for extraordinary situations." Cobell v. Norton, 334 F.3d 1128, 1137 (D.C. Cir. 2003). Petitioners have not established their burden of showing a "clear and indisputable right" to mandamus. See Gulfstream Aerospace Corp. v. Mayacamas Corp., 484 U.S. 271, 289 (1988). Respondent's delay is "not so egregious or unreasonable" as to justify mandamus. See Telecommunications Research and Action Center v. FCC, 750 F.2d 70, 79-81 (D.C. Cir. 1984). Nor have petitioners demonstrated they have "no other adequate means to attain the relief [they] desire[]" other than mandamus. See In re Core Communications,

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Inc., 531 F.3d 849, 860 (D.C. Cir. 2008) (quoting Allied Chem. Corp. v. Daiflon, Inc., 449 U.S. 33, 35 (1980)). It is

**FURTHER ORDERED** that the motion for expedited consideration be dismissed as moot.

Pursuant to D.C. Circuit Rule 36, this disposition will not be published.

**Per Curiam**

**FOR THE COURT:**

Mark J. Langer, Clerk

By:

MaryAnne Lister, Deputy Clerk